IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2007

Coram :

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN

AND

THE HONOURABLE MR.JUSTICE P.P.S.JANARTHANA RAJA

Tax Case (Appeal) No.233 of 2007

M/s.Procon Systems Pvt. Ltd.,
77, Chamiers Road, R.A.Puram,
Chennai-600 028. ..Appellant/Respondent

Vs

The Income-tax Officer,
Company Ward V(1),
Chennai-600 034. ..Respondent/Appellant

Appeal under Section 260A of the Income-tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Bench 'B', Chennai in I.T.A. No.1546/Mds/2005 dated 28.09.2006 for the assessment year 2001-02 agaist the order of the Commissioner of Income Tax (Ap[peals)-V, Chennai in ITA.No.212/2004-05 dated 3.3.2005 for the assessment year 2001-02 against the order of the Income Tax, Officer Company Ward (1) Chennai-34 dated 23/3/04 PANO/GIR.No. AABCP 2896H.

For Appellant : Mr.V.S.Jayakumar

JUDGMENT

(Judgment of the Court was delivered by
P.P.S.Janarthana Raja, J.)

This appeal is filed under Section 260A of the Income Tax Act, 1961 by the assessee, against the order of the Income Tax Appellate Tribunal, Bench 'B', Chennai in I.T.A. No.1546/Mds/2005 dated 28.09.2006 raising the following substantial question of law:-

> Whether the Tribunal was right in holding that the interest payment is not allowable under Sec.57 of the Income-tax Act?"

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2. The facts leading to the above substantial question of law are as under:

The assessee is a Private Limited Company and is engaged in the manufacture and export of Computer Software relating to travelling industries. The relevant assessment year is 2001-2002 and the corresponding accounting year ended on 31.03.2001. The assessee filed Return of income on 31.10.2001 declaring "Nil" income. The Return was processed under Section 143(1) of the Income-tax Act ("Act" in short). Later, the case was selected for scrutiny and also the assessment was reopened under Section 147 of the Act. The assessment was completed under Section 143(3) of the Act determining the total income at Rs.7,35,210/-. While completing the assessment, the Assessing Officer rejected the assessee's claim that interest paid has direct relation with the interest received and hence the expenditure has to be allowed as deduction from the interest income. The Assessing Officer also rejected the method of computation of income. Aggrieved by the order, the assessee filed an appeal to the Commissioner of Income-tax (Appeals). The C.I.T.(A) allowed the appeal. Aggrieved, the Revenue filed an appeal to the Income-tax Appellate Tribunal ("Tribunal" in short). The Tribunal allowed the Revenue's appeal and confirmed the order of the Assessing Officer. Hence the present tax case is filed by the assessee.

3. Learned counsel appearing for the assessee submitted that the assessee has proved the nexus of the funds borrowed and invested in the bank account and as per the principle of real income theory, the net income alone should be taxable. Further the counsel argued that in view of the real income theory, the expenditure to earn income from other sources should have been allowed.

4. Heard the counsel. The assessee has admitted income in the Profit and Loss Account as under:-

Sales	:	Rs.1,33,81,157
Other income	:	Rs. 16,82,777

The assessee claimed the entire income as exempt under Section 10B of the Act. The details regarding the other income of Rs.16,82,777/- are as follows:-

(a) Exchange Fluctuation Gains : Rs.9,47,568/-
(b) Interest on Deposits : Rs.7,35,209/-

The Assessing Officer held that the interest on bank deposit does not qualify for exemption under Section 10B of the Act and hence proposed to assess the same as income under the head "Other Sources". The assessee had obtained a loan of Rs.1,03,12,750/- from Industrialisation Fund for Developing Countries, Denmark on 27.08.1999 and on 14.03.2000. As the borrowed funds were not immediately required for business, they were immediately invested in the bank deposits on 27.08.1999 and 16.03.2000, respectively. The assessee had incurred expenditure of Rs.7,63,135/-

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representing the interest on the above loans and hence the same should be deducted from the interest received from the bank deposits at the average rate. The working of the same are as under:-

Interest on payment of IFU loan	7,63,135
Average balance of IFU loan	1,00,14,363
Rate of interest payments "A"	7.62%
Interest on Bank Fixed Deposits	7,35,209
Average balance of Bank FD	82,27,267
Rate of interest receipts 'B'	8.93%
Profit margin (B-A)	1.31%
Profit on finance activities Average balance of bank FD x Profit margin = 82,27,267 x 1.31 = 1,07,777	

On the above basis, the assessee contended that only Rs.1,07,777/- computed as above, should be assessed. Further it is contended by the assessee that the interest paid has direct relation with the interest received and hence the expenditure has to be allowed as deduction from interest income. It is not in dispute that the assessee had admitted that the expenditure on account of interest has already been debited to Profit and Loss Account. Hence there is no separate deduction possible. When the assessee has already debited the expenditure in the Profit and Loss Account, it is not proper for the assessee to claim a separate deduction. The reasons given by the Tribunal are based on valid materials and evidence and it is not proper for the assessee to claim once again the interest income under "income from other sources", which has already been debited to Profit and Loss Account.

5. Under these circumstances, we are of the view that the order passed by the Tribunal is in accordance with law and the same does not require interference. Hence, no substantial question of law arises for consideration of this Court and accordingly, the tax case is dismissed. No costs.

km

Sd/
Asst. Registrar

/true copy/

Sub Asst.Registrar

To

1. The Assistant Registrar,
   Income-tax Appellate Tribunal, Bench "B",
   Rajaji Bhavan, Besant Nagar,
   Chennai.

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2. The Secretary,
   Central Board of Direct Taxes,
   New Delhi.

3. The Commissioner of Income-tax (Appeals)-V,
   Chennai-600 034.

4. The Income-tax Officer,
   Company Ward-V(1),
   Chennai-34.

+ One cc to Mr. V.S. Jayakumar Advocate sR 32084

NSM (co)

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T.C.(A) No.233 of 2007
05.06.2007

HIGH COURT OF JUDICATURE MADRAS
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